FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE.
SUO MOTO APPLICATION NO. 1 OF 2002
IN
CRIMINAL APPEAL NO. 239 OF 2002

Office Notes, Office Memorada orders or directions and Registrar's orders.	Court's or Judge's Orders.

None for the appellant.
Smt. V.R. Bhosale App for respdt.

CORAM; V.G.PALSHIKAR &
SMT.NISHITA MHATRE, JJ.

DTAED: 12TH OCTOBER, 2006.
P.C.

1. This is a Suo Moto notice issued by the learned Single Judge of this court on 26-3-2002 while dealing with Cri. Appeal No.239 of 2002.

2. The appellant and others were prosecuted in Sessions trial No.183/98 by the 3rd Additional Sessions Judge, Nagpur, who found accused no.1 guilty under sections 498-A and 307 of I.P.C. and sentenced him to suffer R.I. for two years and a fine of Rs. 500/- under 498-A IPC and sentenced him under 307 IPC for

five years R.I. and a fine of Rs. 1000/-. This punishment was considered inadequate by the learned Judge.

3. We have perused the judgment. Adequate reasons are given for inflicting the punishment of five years R.I. under section 307 IPC. The minimum punishment under 304-II IPC can be for five years. Therefore using judicial discretion and awarding five years R.I. under 307 IPC can be called injudicious exercise of discretionary power. In our opinion, therefore there is no need for continuing this proceeding for enhancement. Suo Moto Application No. 1.02 is therefore rejected.

4. The main appeal No.239/02 is therefore liable to be heard by Single Judge of this court. It be put up before appropriate Bench for hearing.

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